

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.40308 & 40368 of 2018

COMMON ORDER:

Since the parties and issue involved in both the writ petitions is one and the same, they are being heard together and disposed of by this common order.

Both the writ petitions are filed against the proceedings dated 20.12.2017 and 20.07.2018, respectively, issued by the 4th respondent.

The case of the petitioner is that she has inherited agricultural land to an extent of Ac.1.07 guntas in Survey No.133, situated at Ramchandrapur Village, Thangallapalli Mandal, Rajanna Sircilla District, from her grandfather late D.Rajaih who was having Ac.4.28 guntas of self acquired agriculture land; that after her grandfather's death the said land has been equally divided to his four sons, and petitioner got 1/4th share i.e. Ac.1.07 guntas and 5th respondent got 1/4th share and another cousins have got 1/4th share each; and that subsequently the 5th respondent inturn has purchased share of his cousin brother Late.Narsaiah; and as such, in total the 5th respondent is having Ac.2.14 guntas of land in his name. It is stated that petitioner's name was entered/mutated in revenue records and is in peaceful possession and cultivating the said land without any disturbance from any corner and her name is reflecting in Adangal/Pahani from 2004 to 2017 and that the 3rd

respondent has also issued Pattadar Pass Book to the petitioner. It is also stated that the 2nd respondent has also issued proceedings under Rights of Land Records vide proceeding No.B/383/2007, dated 08.10.2007 and mutated the name of the petitioner in the revenue records. The petitioner has also obtained loan in the year 2017 by depositing Title Pass Books in State Bank of India, Jillela Branch of Sircilla. While so, on 19.05.2018 the petitioner came know about the illegal entries when the authorities were distributing incentive cheques and new pass books under 'Rythubandhu' program. In the online list dated 01.05.2018, the name of the petitioner was shown at Serial No.171 for new entry online pahani and in the said online list dated 19.05.2018 the 5th respondent's name is shown at Sl.No.210 as owner to the total extent of Ac.4.28 guntas in Sy.No.133. Immediately on 19.05.2018 petitioner made representation requesting the authorities to take action with regard to the entries made in the revenue records. As no action is being taken, petitioner filed WP.No.19818/2018 and this Court disposed of the same on 14.06.2018 directing the petitioner to resubmit the representation before the respondents 2 to 4 and on such resubmission, the respondents 2 to 4 are directed to consider and dispose of the same within two weeks after issuing notice to the 5th respondent as well. After disposal of the said writ petition, petitioner made an application under RTI, seeking information about change of name in revenue records, for which, to the shock of the petitioner proceedings

dated 20.12.2017 were issued wherein it is stated that basing on the representation of 5th respondent dated 22.09.2017, a report was submitted by the VRO and basing on the same the 4th respondent has directed to enter the name of the 5th respondent as pattadar to the total extent of Ac.4.28 guntas.

It is stated that after receipt of the copy of the order in WP.No.19818/2018, the petitioner made a representation to the respondents on 27.06.2018 by enclosing all relevant material along with copy of the order in the aforesaid writ petition. Thereafter, the 4th respondent has issued notice dated 13.07.2018 directing the petitioner and the 5th respondent to appear before them on 19.07.2018 along with documentary evidence and affidavit if any regarding claim or objection or title over the land in Sy.No.133. Thereafter, proceedings dated 20.07.2018 were issued by the 4th respondent stating that as no fresh evidence has been adduced by the petitioner showing her possession over the subject land and since her name was replaced with the name of 5th respondent long back and since the petitioner has filed copies of mutations, pattedar pass books etc issued to her previously, no action is needed to be taken on the application of the petitioner and also directed to the petitioner to approach competent civil Court. Aggrieved by the said proceedings dated 20.12.2017 and 20.07.2018, present writ petitions are filed.

Heard learned counsel for the petitioner who submits that the said proceedings dated 20.07.2018 were issued without

verifying the material/documents filed by the petitioner and that the 4th respondent has come to erroneous conclusion that petitioner was never in possession of the subject land. It is further stated that the petitioner came to know about the said entries only after receiving information under RTI and hence petitioner could not question the said entries in time and that impugned proceedings dated 20.07.2018 were issued without any notice and without conducting any enquiry. It is also stated that petitioner was issued pattadar pass books and title deeds in respect of Ac.1.07 guntas in Survey No.133, situated at Ramchandrapur Village, Thangallapalli Mandal, Rajanna Sircilla District; that though the 5th respondent requested for change of his name in respect of only Ac.2.14 cents in Survey No.133, the respondents passed impugned orders dated 20.12.2017 stating that the name of the 5th respondent has to be entered in respect of Ac.4.28 guntas, without application of mind. She also submits that for the years 2004 to 2017 the entries were made in revenue records in petitioner's favour in respect of subject land and that after continuing the name of the petitioner for 14 years, now the respondents cannot change petitioner's name.

On the other hand learned counsel appearing for 5th respondent submits that without any basis 5th respondent's name was deleted from the revenue records from the year 2004; and that basing on his application, after conducting enquiry

impugned order dated 20.12.2017 was passed, and as such, no action can be taken.

Heard learned Assistant Government Pleader for Revenue.

The fact that the subject land to an extent of Ac.1.7 guntas in Survey No.133 is recorded in the name of petitioner from 2004 to 2017 is not disputed. The fact that earlier petitioner was issued pattadar pass books in respect of subject property was not disputed. If that is so, it is not known how the impugned order dated 20.07.2018 is passed rejecting the claim of the petitioner, after continuing petitioner's name in revenue records in respect of subject land from 2004 to 2017. The subject mentioned in the impugned order dated 20.12.2017 also goes to show that 5th respondent's application is only in respect of Ac.2.14 guntas. Even though the 5th respondent is claiming the subject property through unregistered sale deeds, it is not mentioned in the counter affidavit, whether the said document is validated or not. The Tahasildar rightly held in the impugned proceedings dated 20.07.2018 that the matter has to be decided by the Civil Court. Holding so, he could not have been deleted the name of the petitioner by issuing impugned proceedings.

In view of the aforesaid facts and circumstances, the impugned orders dated 20.12.2017 and 20.07.2018 are set aside and both the writ petitions are allowed. However, it is open for the 5th respondent to agitate his rights before

competent Civil Court as rightly held by the 4th respondent in the impugned proceedings. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Writ Petitions shall stand closed.

A.RAJASHEKER REDDY, J

03.12.2018

Note: Issue CC by 04.12.2018.

B/o.tk

